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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

PEREZ GUTIERREZ, R

ART UNIT

PAPER NUMBER

2683

21

DATE MAILED:

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/206,627

Applicant(s)
Allen, Jr.

Examiner
Rafael Perez-Gutierrez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on May 17, 2001

2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-11, 14, 16-22, and 24-33 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-11, 14, 16-22, and 24-33 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3-9 & 12

20) ☐ Other: _____

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DETAILED ACTION

1. This Action is in response to Applicant's amendment filed on May 17, 2001. **Claims 1-11, 14, 16-22, and 24-33** are now pending in the present application. **This action is made FINAL.**

Information Disclosure Statement

2. The information disclosure statements submitted on March 1, 1999; March 5, 1999; September 13, 1999; September 21, 1999; November 16, 1999; June 19, 2000; July 20, 2001; and September 15, 2000 have been considered by the Examiner and made of record in the application file.

Oath/Declaration

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because it does not identify the post office address of the inventor. A post office address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The post office address should include

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the ZIP Code designation.

Drawings

4. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed

Claim Objections

5. **Claims 1, 2, 4, 19, 21, and 24-26** are objected to because of the following informalities:

a) On **line 2 of claims 1 and 19**, replace “GPS” with --Global Positioning Satellite System (GPS)--;

b) On **line 5 of claims 1 and 19**, on **line 1 of claims 2, 4, 21, and 24-26**, replace “comprising” with --comprising--;

c) On **line 5 of claim 26**, insert --and-- after “enabled;”;

d) On **line 6 of claim 26**, replace “a” with --an-- before “enable controller”.

Appropriate correction is required.

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6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation “page receiver,...., telemetry transmitter” in **line 2**. There is insufficient antecedent basis for this limitation in the claim. Previous reference to a “page receiver” and a “telemetry transmitter” was not found in **claims 1 or 8**. It is evidently that “page” should be change to --trigger signal-- and “telemetry” should be change to --cellular network--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless -- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 26-33 are rejected under 35 U.S.C. 102(e) as being anticipated by **Janky et al.** (U.S. Patent # 5,777,580).

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Consider **claim 26**, Janky et al. clearly show and disclose a vehicle location system (triggerable location-reporting apparatus) comprising:

a location determination system (LDS) receiver/processor 31 (location-signal generating device) configured to produce a location signal when enabled (abstract and figures 1, 2, 5, and 6);

an interrogation signal (IS) communications transmitter or responder means 27 (telemetry transmitter) coupled to the LDS receiver/processor 31 (location-signal generating device) configured to transmit the location signal when enabled (abstract, figures 1, 2, 5, and 6, and column 5 lines 42-53); and

a controller 25 (enable controller) configured to wake-up (enable) the LDS receiver/processor 31 (location-signal generating device) and the IS communications transmitter or responder means 27 (telemetry transmitter) when it receives an interrogation (trigger) signal (IS) and, inherently, to put back to sleep (disable) the LDS receiver/processor 31 (location-signal generating device) and the IS communications transmitter or responder means 27 (telemetry transmitter) after the IS communications transmitter or responder means 27 (telemetry transmitter) transmits the location signal (abstract, figures 1, 2, 5, and 6, column 11 lines 26-40, and claims 1-8).

Consider **claim 27**, and **as applied to claim 26 above**, Janky et al. further disclose that the LDS receiver/processor 31 (location-signal generating device) comprises a GPS processor (abstract and column 11 lines 15-19).

Consider **claim 28**, and **as applied to claim 27 above**, Janky et al. further show and

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disclose that the controller 25 (enable controller) is coupled to an IS communications receiver 21 (pager receiver) (abstract, figures 1, 2, 5, and 6, and column 6 line 65 - column 7 line 1) which produces an enable signal when it receives a page (column 8 lines 5-14).

Consider **claim 29**, and **as applied to claims 26 and 28 above**, Janky et al. further disclose that the GPS processor generates the location signal in response to the enable signal (column 11 lines 31-35).

Consider **claim 30**, and **as applied to claims 28 and 29 above**, Janky et al. further disclose that the GPS processor is in a “sleeper” mode (power is not applied) until the system receives a page (column 11 lines 35-40).

Consider **claim 31**, and **as applied to claim 26 above**, it is inherently taught by Janky et al. that power is also not applied to the IS communications transmitter or responder means 27 (telemetry transmitter) until the system receives a page since one of the motivations of Janky et al. when developing the system was to reduce power consumption by the system equipment (column 4 lines 46-62).

Consider **claims 32 and 33**, and **as applied to claim 26 above**, Janky et al. further disclose that the IS communications transmitter or responder means 27 (telemetry transmitter) comprises a cellular telemetry transmitter or a satellite telemetry transmitter (column 7 lines 2-5).

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8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. **Claims 1-11, 14, 16-22, 24, and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Janky et al. (U.S. Patent # 5,777,580)** in view of **Westerlage et al. (U.S. Patent # 5,826,195)**.

Consider **claims 1-4, 19, 20, and 22**, Janky et al. clearly show and disclose a vehicle location system (triggerable location-reporting apparatus) for use in an environment including: satellites 35A-D (source) outputting Global Positioning Satellite (GPS) System signals; a Vehicle Location Service Center (VLSC) 15 (source) outputting an interrogation (trigger) signal (IS) (page); a cellular base station connected through a network to a gateway; the cellular base station being configured to expect a Reverse Control Channel (RECC) signal including a Mobile

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Identification Number (MIN) and an Electronic Serial Number (ESN) (column 7 line 6 - column 8 line 4), the vehicle

location system (triggerable location-reporting apparatus) comprising:

a power supply 34, 34' coupled to a power supply connection (figure 5 and column 13 lines 4-16);

a location determination system (LDS) receiver/processor 31 (GPS receiver) responsive to the GPS signals for producing GPS data when enabled (abstract and figures 1, 2, 5, and 6, and column 11 lines 15-19);

an IS communications transmitter or responder means 27 (cellular network transmitter) coupled to the LDS receiver/processor 31 (GPS receiver) for formatting and transmitting, when enabled, a RECC signal including the formatted GPS data to the gateway (abstract, figures 1, 2, 5, and 6, and column 5 lines 42-53);

an IS communications receiver 21 (trigger signal receiver) responsive to the IS (trigger signal) for producing an enable signal (abstract and figures 1, 2, 5, and 6);

a controller 25 (enable controller) coupled to the LDS receiver/processor 31 (GPS receiver), the IS communications transmitter or responder means 27 (cellular network transmitter), and the IS communications receiver 21 (trigger signal receiver) (figures 1, 2, 5, and 6);

the controller 25 (enable controller) being configured to wake-up (enable, switch on), by means of a first switchable power signal, the LDS receiver/processor 31 (GPS receiver) and, by

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means of a second switchable power signal, the IS communications transmitter or responder means 27 (cellular network transmitter) when it receives an enable signal from the IS communications receiver 21 (trigger signal receiver); and

inherently, the controller 25 (enable controller) being configured to put back to sleep (disable, switch off) the LDS receiver/processor 31 (GPS receiver) and the IS communications transmitter or responder means 27 (cellular network transmitter) (abstract, figures 1, 2, 5, and 6, column 11 lines 26-40, and claims 1-8).

However, Janky et al. does not specifically disclose that the RECC signal includes the formatted GPS data in the place normally occupied by the ESN and a MIN that will cause the cellular base station to send a Registration Notification Invoke signal including the formatted GPS data to the gateway.

Westerlage et al. clearly show and disclose a data messaging system and a data messaging unit 16, equipped with a cellular transceiver 38, that generates a data message (e.g., GPS data) in response to a reporting event (trigger signal). Said data message (e.g., GPS data) is transmitted by the cellular transceiver 38, in a Reverse Control Channel, by altering the Electronic Serial Number and the Mobile Identification Number of the cellular transceiver 38. A cellular base station receives the data message and, after recognizing the altered identifier, forwards the message to a platform (gateway) (abstract, figures 1 and 2, column 1 line 62 - column 2 line 30, column 6 lines 55-65, column 9 lines 4-17, and column 10 line 16 - column 12 line 4).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time

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the invention was made to slightly modify the teachings of Janky et al. with the teachings of Westerlage et al. in order to provide a triggerable location-reporting apparatus that takes advantage of existing communications protocols as well as existing cellular communications equipment at a reduced cost and complexity when communicating data messages in the place normally occupied by the ESN and the MIN, as recognized by Westerlage et al. (column 2 lines 6-13).

Consider **claims 5-7**, and **as applied to claim 4 above**, Westerlage et al. further show and disclose that the power supply could be a battery, a vehicle battery, or a solar cell (figure 2 and column 7 lines 30-40).

Consider **claims 8, 9, and 11**, and **as applied to claim 2 above**, Janky et al. further show and disclose that the location determination system (LDS) receiver/processor 31 (GPS receiver), the IS communications transmitter or responder means 27 (cellular network transmitter), and the IS communications receiver 21 (trigger signal receiver) are housed in a housing (figure 5) configured to be installed in a vehicle or in any object to be tracked (figures 1 and 2 and column 13 lines 4-16).

Consider **claim 10**, and **as applied to claim 8 above**, although the combined teachings of Janky et al. and Westerlage et al. does not specifically disclose that the housing comprises at least a portion of an article of clothing, the Examiner takes Official Notice that is well known in the art of location monitoring to have location monitoring devices in at least part of an article of clothing, therefore, using the claimed apparatus in such environment would have been obvious to

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a person of ordinary skill in the art at the time the invention was made. Numerous references showing such feature have been cited by the Applicant as part of the information disclosure statements..

Consider **claim 14**, and **as applied to claim 1 above**, Janky et al. further disclose that the IS communications transmitter or responder means 27 (cellular network transmitter) comprises a cellular telephone (column 7 lines 2-5).

Consider **claim 16**, and **as applied to claim 1 above**, Janky et al. further disclose that the IS (trigger signal) comprises a page signal (column 5 lines 10-15).

Consider **claims 17 and 18**, and **as applied to claim 1 above**, Janky et al. further disclose that the source of IS (trigger signal) can be a vehicle trigger event sensor 36 (e.g., alarm, remote control, or the like) (column 12 line 43 - column 13 line 3).

Consider **claim 21**, and **as applied to claim 19 above**, Janky et al. further show and disclose receiving the location signal at an IS contact receiver 43 (e.g., gateway) and communicating the transmitted location to a VLSC 15 (service provider) (figures 1 and 2 and column 12 lines 16-42).

Consider **claim 24**, and **as applied to claim 19 above**, Janky et al. further disclose determining if the vehicle is moving and continuing to transmit the location of the vehicle while it is moving (column 12 lines 23-26).

Consider **claim 25**, and **as applied to claim 19 above**, Janky et al. further disclose storing the location of the vehicle (e.g., last known location) and transmitting the stored location

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of the vehicle if the ability to determine location ceases (column 11 lines 60-65 and column 12 lines 26-33).

Response to Arguments

10. Applicant's arguments with respect to **claims 1, 19, and 26** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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12. Any response to this Office Action should be **faxed to (703) 872-9314 or mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Hand-delivered responses should be brought to

Crystal Park II
2021 Crystal Drive
Arlington, VA 22202
Sixth Floor (Receptionist)


13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Rafael Perez-Gutierrez whose telephone number is (703) 308-8996. The Examiner can normally be reached on Monday-Thursday from 6:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, William G. Trost IV can be reached on (703) 308-5318. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700 or call customer service at (703) 306-0377.


Rafael Perez-Gutierrez
R.P.G./rpg

RAFAEL PEREZ-GUTIERREZ
PATENT EXAMINER


WILLIAM TROST
SUPERVISORY PATENT EXAMINER
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July 6, 2001